

CHAPTER 8 - COMPLIANCE WITH APPLICABLE LAWS, POLICIES, AND PLANS

The regulatory requirements discussed below must be met before any of the project alternatives are implemented.

8.1 FEDERAL REQUIREMENTS

8.1.1 National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) (42 U.S. Government Code [USC] 4321, 40 Code of Federal Regulations [CFR] 1500.1) applies to any action that requires permits, entitlement, or funding from a Federal agency; is jointly undertaken with a Federal agency; or is proposed on Federal land. NEPA requires every Federal agency to disclose the environmental effects of its actions for public review purposes and for assisting the Federal agency in assessing alternatives to and the consequences of the proposed action. NEPA requires that an environmental document be prepared that considers, discloses, and discusses all major points of view on the environmental impacts of the recommended plan and alternatives.

This portion of the Integrated Feasibility Report/EIR/EIS is in support of a proposed levee realignment and ecosystem restoration project that would be built by the Corps. This document provides the information required by NEPA for the decision-makers to consider the environmental consequences of the no-action and action alternatives. The Corps is the lead Federal agency for NEPA for this project.

The draft Feasibility Report/EIR/EIS was distributed for a 45-day public review in April 2004. Full compliance will be achieved when this final Feasibility Report/EIR/EIS and Record of Decision are filed with the EPA.

8.1.2 Endangered Species Act (ESA) of 1973, as Amended

The Endangered Species Act of 1973 requires any Federal agency to consult with the USFWS before taking any action that may affect a listed species. The Federal agency must first avoid an action that may adversely affect a listed species. If the Federal action cannot avoid an adverse effect on listed species then the Federal agency must enter into formal Section 7 consultation with USFWS and/or NOAA Fisheries to identify appropriate measures to avoid, minimize, and compensate for the effect (USFWS 1996).

The lead agencies have been informally consulting with the USFWS and NOAA Fisheries since 1998 in anticipation of a programmatic document for the Sacramento and San Joaquin River Basins Comprehensive Study. As part of the Hamilton City study, the lead agencies have begun informal consultation in accordance with Section 7 of the ESA. The lead agencies requested and received from the USFWS, a list of endangered, threatened, and proposed species. This list was dated April 11, 2001, and updated lists were received on October 21, 2003 and November 6, 2003 (Appendix B1).

Informal consultation with USFWS has continued throughout the planning process and has included site visits with the Endangered Species Section. It has been assessed that the recommended plan would have only beneficial effects to threatened and endangered species under USFWS jurisdiction. However, future OMRR&R activities under the project may require affects to elderberry plants that were planted or otherwise established by the projects restoration activities. These effects to elderberry plants may in turn affect the VELB. A Biological Assessment was provided to the USFWS on April 1, 2004 to initiate formal consultation under the ESA for the purpose of acquiring an incidental take permit for VELB for future OMRR&R activities.

The USFWS responded with a Biological Opinion (BO; Appendix B1), dated June 30, 2004 and amended August 3, 2004, that concluded the proposed project, including proposed conservation measures, "is not likely to jeopardize the continued existence of the beetle" and would "result in the establishment of a significant amount of habitat for the valley elderberry longhorn beetle that will be of long-term benefit to this listed animal, and any adverse effects will be temporary and relatively minor in nature." The BO includes an incidental take statement, which provides an exemption from prohibitions against take of VELB due to project related activities, including OMRR&R and flood-fighting activities.

The Corps has also conducted informal consultation with NOAA Fisheries for anadromous fish that are found in the study area. Although the recommended plan overall is expected to be beneficial for anadromous fish, addition of a rock protection feature at the Gianella Bridge could have some adverse effects. The Corps submitted a Biological Assessment (BA) to NOAA Fisheries with the finding that the recommended plan "may affect" listed or proposed species under their jurisdiction. The BA requested initiation of formal Section 7 consultation.

NOAA Fisheries responded with a letter, dated June 23, 2004 (Appendix B1), Based on avoidance, minimization, and restoration measures included in the project design, including the scheduling of the placement of in-water riprap for the period from June 1 to July 15, NOAA Fisheries concluded that the risk of adverse effects to anadromous fish, designated critical habitat, and essential fish habitat would be negligible. Therefore, they concluded that formal consultation would not be required.

8.1.3 Fish and Wildlife Coordination Act (FWCA)

The Fish and Wildlife Coordination Act was authorized on March 19, 1934, to authorize State and Federal agencies to work together to protect, rear, stock, and increase the populations of game and fur-bearing species. The Coordination Act was amended in 1946, adding the requirement to consult with USFWS and State fish and wildlife agencies when a Federal project would affect a body of water. The consultation was to prevent the loss or damage to wildlife habitat and resources. The 1958 amendments recognized the importance of wildlife resources to the United States and required coordination with other water resource agencies for the purpose of protecting wildlife resources. The amendments expanded the types of water projects that were required to consult with USFWS (USFWS, 2003).

The USFWS has prepared the Coordination Act Report (CAR), which contains the Habitat Evaluation Procedure (HEP) analysis as an appendix. The CAR and the HEP can be found in Appendix B.8. The HEP analysis was completed in 2003 to determine the anticipated

Future benefits to fish and wildlife resources as a result of implementation of the alternatives. The HEP team includes representatives from the Corps and USFWS. The results of the HEP analysis show that habitat values for all alternatives increase over the baseline condition.

The CAR was prepared in compliance with the FWCA and documents the consultation between the Corps and the USFWS on the effects of the alternatives on fish and wildlife resources. The CAR was sent July 9, 2004 and includes the following recommendations:

- Choose Alternative 5.
- Use native grasses when planting grass species.
- Develop and implement a vegetation monitoring program as part of the project. Monitoring the riparian restoration effort should focus on recording tree survival rates, the quantification of improved habitat values for wildlife (primarily bird species) by measuring percent tree and shrub cover, average height of overstory trees, canopy layering, and total woody riparian vegetation, and developing recommendations for alternative methods of riparian restoration should initial efforts fail. A vegetation monitoring report should be submitted annually for the first 5 years after planting activities, and on the 10th, 15th, and 20th year after planting. The monitoring reports should also identify any shortcomings in the restoration effort and include remedial actions on how to improve restoration efforts. All phases of the revegetation and monitoring programs should be coordinated with, and approved by, the Service, CDFG, and NOAA Fisheries.
- Comply with the Proposed Conservation Measures in the biological opinion from the USFWS .
- Complete the appropriate consultation with the CDFG regarding impacts to State listed species, and NOAA Fisheries, as required under section 7 of the Endangered Species Act, for potential impacts to anadromous fish and marine species under NOAA Fishery's jurisdiction.

The Corps has reviewed these recommendations and has the following responses:

- Alternative 6 was identified as the recommended plan because it reasonably maximizes both ecosystem restoration and flood damage reduction benefits compared to costs.
- Native grasses will be used whenever planting grasses.
- The Corps will conduct vegetation monitoring over the first 5 years after planting as part of construction costs. Recommendations made by the Service for this monitoring will be incorporated into the monitoring plans. Coordination with NOAA Fisheries during the revegetation and monitoring program will not be conducted since this work would be outside their area of jurisdiction. Monitoring during the 10th, 15th, and 20th year after planting would be incorporated into the project's O&M plan and conducted by the project sponsor.
- The Corps will comply with a set of Proposed Conservation Measures that are agreeable to the Service, the Corps, and the Reclamation Board.

- Appropriate consultations regarding special status species have been completed with the Service, CDFG, and NOAA Fisheries.

8.1.4 Section 106 of the National Historic Preservation Act (NHPA)

Section 106 of the National Historic Preservation Act (NHPA) requires a Federal agency to consider the effects of Federal undertakings on historical and archeological resources. Under these requirements, the area of potential effect (APE) of the selected project shall be inventoried and evaluated to identify historical or archeological properties that have been placed on the National Register of Historic Places and those that the agency and the State Historic Preservation Officer (SHPO) agree are eligible for listing in the National Register. If the project is determined to have an effect on such properties, the agency must consult with the SHPO and the Advisory Council on Historic Preservation (ACHP) to develop alternatives or mitigation measures and afford the ACHP an opportunity to comment with regard to undertakings that may affect historic properties. The implementing regulation for Section 106 is 36 CFR Part 800 (revised 2001), "Protection of Historic Properties" which requires Federal agencies to initiate Section 106 consultation with the SHPO.

The evaluation of historic properties as part of this Feasibility Report/EIR/EIS complies with the NHPA as it applies to the no action and action alternatives. A records check of known cultural resources and past surveys was completed in July 2001. In accordance with Section 106 of the NHPA, the Corps has consulted with the California SHPO in a letter dated August 4, 2003, asking for their comments on the APE. A letter dated January 22, 2004, from the SHPO concurred with the Corps' identification of the APE. Some sites in the area of potential affect (APE) have not been recently surveyed; necessary surveys will be completed. If additional cultural resources are identified during the field surveys, evaluations and effect determinations will be made in accordance with Section 106 review process. Unavoidable adverse effects to historic properties will be mitigated in accordance with the NHPA. Prior to the initiation of construction, an updated records check and thorough field surveys will be conducted.

8.1.5 Farmland Protection Policy Act (FPPA)

The FPPA was authorized to minimize the unnecessary and irreversible conversion of farmland to nonagricultural use due to Federal projects. FPPA protects prime and unique farmland, and land of statewide or local importance. The FPPA protects forestland, pastureland, cropland, or other land that is not water or urban developed land.

The FPPA requires a Federal agency to consider the effects of its action and programs on the Nation's farmlands. The FPPA is regulated by the NRCS. The NRCS is authorized to review Federal projects to see if the project is regulated by the FPPA and establish what the farmland conversion impact rating is for a Federal project. The Corps is required to provide the Natural Resources Conservation Service (NRCS) with project maps and descriptions to assess impacts on prime and unique farmlands.

Project maps and descriptions of the alternatives were sent to NRCS. The NRCS, in turn, conducted an analysis and responded with a Farmland Conversion Impact Rating letter (see Appendix B). The NRCS determined that the relative value of farmland to be converted was rated at 75, out of a possible 100, based on an evaluation using the Storie Index. The

Corps completed the site assessment portion of the rating, giving the site a rating of 95 out of a possible 160 points. Thus, the combined score was 170. According to the Farmland Protection Policy Act, farmland receiving a farmland conversion impact rating less than 160 need not be given further consideration for protection, and alternative actions do not need to be considered. The U.S. Department of Agriculture recommends that sites receiving scores totaling 160 or more be given increasingly higher levels of consideration for protection. Alternatives were considered, but all alternatives had similar ratings. Project objectives constrained the consideration of alternative locations for the project. The effects of alternatives on these farmlands are discussed in Chapter 5.

8.1.6 Clean Water Act (CWA)

Federal and State laws regulate the physical, chemical, and biological characteristics of the Nation's water systems. The Clean Water Act (CWA) is the Federal law that establishes the baseline that all other State and local water quality laws must meet. The CWA's objectives are to regulate water pollution and water quality so that the Nation's waterways can be restored and maintained. The U.S. EPA is the agency that enforces the CWA. The CWA's first goal is to eliminate all pollution discharge into the Nation's waterways. The second goal is to make all the Nation's waterways safe for all animal and human use. The CWA regulates oceans, lakes, river, and any other water systems, water or chemical discharges, and the action of any Federal agency. The CWA establishes standards; enforces procedures; and develops regulatory programs, permits, grants, and procedures on other water quality related issues. All State and local laws must meet the standards and regulations established by the CWA.

Section 404 of the CWA regulates the discharge of the dredged or fill material into wetlands and waters of the United States. The Corps and the U.S. EPA both have responsibilities in administering this program and typically issue permits for these regulated activities after notice and opportunity for public hearings. Individual permits and general permits are issued for activities that may affect wetlands and waters of the United States. The General permit program, which includes Nationwide permits, is for activities that are similar in nature or that would likely cause minimal environmental effects. Although the Corps does not issue itself permits for its own Civil Works projects, Corps regulations state that the Corps does have to comply with the intent of the Regulatory permitting process and must apply the guidelines and substantive requirements of Section 404 to its activities.

The only activity associated with the recommended plan that would affect wetlands or other waters of the US is the placement of rock at Gianella Bridge. This activity would be covered for Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act under Nationwide Permit #14 for Linear Transportation Projects. The setback levee would be located to avoid impacts to the wetlands associated with Dunning's Slough. A 404(b)(1) analysis has been written for the potential in-water work of placement of rock at the bridge, in compliance with the Federal Register December 24, 1980 Section 230.12 guidelines (Appendix B). The Corps has determined that this project as proposed is consistent with the Section 404(b)(1) guidelines and in compliance with the Clean Water Act and meets the Section 404(r) exemption criteria. The Corps plans to seek an exemption from the requirement to obtain State water quality certification under Section 404(r) of the Clean Water Act.

8.1.7 Clean Air Act (CAA)

The Federal Clean Air Act (CAA) was enacted in 1969 to protect public health by regulating the amount of pollutants in the air. The act established primary and secondary National Ambient Air Quality Standards (NAAQS) that all states must regulate and maintain (Table 4-3). The NAAQS include the amount of pollutants allowed in the air based on the sensitivity level of the public. Primary pollution levels are pollution levels safe for sensitive receptors such as children, elderly, and asthmatics. Secondary pollution levels are levels of pollutants safe for the general public.

The Federal CAA also delegated primary enforcement to the states. In California, the Air Resources Board (ARB) has been designated as the responsible agency for all air quality regulation. The State must promulgate rules and regulations that promote the goals of the Federal CAA and assist in their attainment. The State's rules and regulations must be at least as stringent as the mandated Federal requirements. In states where one or more of the criteria pollutants exceed the NAAQS, the state is required to prepare a State Implementation Plan, which determines how the state intends to meet the standards in a timely manner as detailed in the Federal CAA. In California, the Air Resources Board develops and implements the State Implementation Plan.

In 1990, the Federal CAA was amended. New criteria were established for non-attainment classifications, emission control requirements, and compliance dates for geographic areas that are in non-attainment for one or more pollutants. In addition, the amended act requires that any Federally-funded project must comply with the air quality standards and regulations that have been established by State Implementation Plans.

The U.S. Environmental Protection Agency (EPA) developed the General Conformity Rule, which became effective on January 31, 1994, to implement Section 176c of the Federal CAA. The underlying principle of the General Conformity Rule is that Federal actions must not cause or contribute to any violation of a NAAQS. A conformity determination is required for each pollutant where the total of direct and indirect emissions caused by a Federal action in a non-attainment area exceeds *de minimis* threshold levels listed in the General Conformity Rule (40 CFR 93.153).

The proposed alternatives would not violate any standards, increase violations, exceed the U.S. Environmental Protection Agency's conformity *de minimis* thresholds, or hinder the attainment of air quality objectives in the local air basin. A letter from the Glenn County Air Pollution Office received July 2003 included mitigation measures, which have been included in the Air Quality discussion in Chapter 5. The Corps has determined that the work would have no significant adverse effects on the future air quality of the area if these mitigation measures are implemented. Since the proposed alternatives would not exceed *de minimis* thresholds, a conformity determination is not required.

8.1.8 Wild and Scenic Rivers Act

The purpose of this act is to preserve and protect wild and scenic rivers and immediate environments for the benefit of present and future generations. Congress must approve any action that would affect a Congressionally-designated river.

Near the study area, Upper Big Chico, Upper Butte Creek, Upper Deer Creek, and the middle fork of Upper Stony Creek above Black Butte Reservoir have been designated Wild and Scenic Rivers. These river reaches are all outside the project area of impact.

8.1.9 Executive Order 11988, Floodplain Management

To comply with this Executive Order (EO), the policy of the Corps is to formulate projects that, to the extent possible, avoid or minimize adverse effects associated with use of the without-project floodplain, and avoid inducing development in the existing floodplain unless there is no practicable alternative. One objective of the study is to return flooding to the floodplain; in addition, project alternatives have been developed to reduce flood damages in the Hamilton City area. All proposed alternatives restore function to the floodplain and are therefore in full compliance with this EO.

8.1.10 Executive Order 11990, Wetlands

Executive Order 11990, Wetlands, directs the Corps to provide leadership and take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands implementing Civil Works projects. For the recommended plan, wetlands would be avoided through the design and siting of the setback levee.

8.1.11 Executive Order 12898, Environmental Justice

Executive Order 12898, Environmental Justice, requires that environmental analyses of proposed Federal actions address any disproportionately high adverse human health or environmental effects on minority or low-income communities. Federal agencies' responsibility under this order shall also apply equally to Native American programs. In addition, each Federal agency must ensure that public documents, notices, and hearings are readily accessible to the public.

Based on Table 4-10, the population of Hamilton City can be described as primarily a minority, low-income population, thereby falling under the protection of Executive Order 12898, titled "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations." The 1999 Glenn County per capita income was about \$18,015, which was about 60 percent of the California average (Table 4-10). The 1999 Hamilton City per capita income was about \$9,015, which was about 50 percent of the Glenn County figure. Median household values in Hamilton City are below the state average. The foreign-born population percentage of Hamilton City is significantly above the state average.

The fair treatment of people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies has been included in the development of this study. The EIS has not identified any adverse human health or environmental effects that could be disproportionately high for selected populations within the community. The impacts of the project alternatives would affect the farming community, and those economically linked to the farming community, equally.

Mailing notices and distribution of other project information included property owners and potentially affected persons and institutions without any distinction based on minority or income status. The local farming community has been invited to all public meetings and their representatives have attended plan formulation meetings to ensure input into the planning process. A bilingual translator has been present at stakeholder meetings and public workshops.

The recommended plan would benefit the low-income community of Hamilton City by decreasing the potential flood damages to the community and restoring the ecosystem of the surrounding area. For 30 years, it was not economically feasible to develop a flood damage reduction only project for the Hamilton City area due to the lack of a benefit/cost ratio greater than 1.00. The inclusion of ecosystem restoration into the project allows for the minority, low-income community to receive increased flood protection and ultimately has an overriding beneficial effect on the local community. The local farming community has been invited to all public meetings and their representatives have attended plan formulation meetings. Loss of agricultural land could have a targeted effect on the agricultural workers; however, the amount of converted land would result in a 0.3 percent countywide reduction of jobs, which is not considered significant.

Members of the study team regularly attended Hamilton City Workgroup meetings to report on the progress of the study, solicit feedback from the workgroup, and answer questions. These meetings were held at the Hamilton City Fire Hall approximately every two months over the course of the study. The Hamilton City Community Services District led the meetings and the Sacramento River Conservation Area Forum helped with meeting facilitation. The purpose of the meetings was to provide a forum to discuss and coordinate water resources related studies, projects, and other issues affecting the Hamilton City area. Local landowners and residents, representatives of local, State, and Federal agencies, representatives from State and Federal elected officials, representatives from non-profit organizations, and others attended the meetings. Information provided by the local and regional interest groups and individuals guided the identification of resources problems and helped formulate the alternative plans to address the problems and identification of the tentatively selected plan. The Hamilton City Feasibility Study has also periodically been discussed at the Sacramento River Conservation Area Forum (SRCAF) Board meetings.

8.1.12 Noxious Weed Act of 1974 (NWA)

The Noxious Weed Act (NWA) was authorized to control and manage the spread of nonnative plant species that may have adverse affect on agriculture, commerce, wildlife resources, or public health. The NWA inhibits the transport, trade, or sells of noxious plant species in the United States. The NWA gave the Secretary of Agriculture the authority to determine which plants species are noxious plant species and to establish measures to control them. The NWA requires all Federal Agencies to establish a management plan to control the spread of noxious plant species in the agencies jurisdictions. A Federal agency has the authority to stop the spread of noxious plant species within their jurisdictions (Federal Wildlife Laws Handbook 2003).

8.1.13 Executive Order 11514, Protection and Enhancement of Environmental Quality

Executive Order 11514 was signed by the President on March 1, 1970, with the purpose of protecting the U.S. environmental quality and the quality of human environment (Executive Order 11514). Executive Order 11514 requires Federal agencies to develop policies, programs, or measures that meet national environmental goals established by NEPA and other environmental laws. Federal agencies shall monitor, evaluate, and control activities so that they protect and enhance the quality of the environment. Agencies must consult with the appropriate Federal, State, and local agencies to develop and modify activities or measures to protect and enhance environmental quality.

Executive Order 11514 requires Federal agencies to provide the public with information on any activity that may affect environmental quality and the quality of human life, and obtain the public's opinion on these activities. The project, program, or activity information provided to the public shall include the alternatives that can be taken, and encourage State and local agencies to provide the public with information on any activity they may take that could affect environmental quality (Executive Order 11514). The recommended plan would restore 1,500 acres of native habitat, thereby contributing to the protection and enhancement of environmental quality.

8.1.14 Migratory Bird Treaty Act of 1918 (MBTA)

The Migratory Bird Treaty Act (MBTA) formed an agreement between Canada, Japan, Mexico, and Russia to protect migratory birds (Department of Energy Environmental Policy and Guidance 2001). The MBTA establishes treaties and conventions to establish policies and management approaches to protect the migratory birds that migrate between the participating countries (USFWS, 2003). The MBTA regulates the trapping, capturing, killing, transportation, trade, or sales of migratory birds, their eggs, parts, and nests. The MBTA is regulated and enforced by the Department of Interior. Section 704 of the MBTA gives the Secretary of the Interior the authority to determine the management measure required to ensure that take is compatible with the protection of migratory bird species according to distribution and population in the U.S. (Department of Energy Environmental Policy and Guidance 2001). The recommended plan would create an additional 1,500 acres of native habitat that would be available as a layover and rest area for migratory birds. The recommended plan would not have any negative effects on migratory birds.

8.1.15 Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)

Congress passed the Magnuson-Stevens Act in 1976, which gave the National Marine Fisheries Service (NOAA Fisheries) the authority to regulate fisheries in the United States. The area of authority covers a range of 3 nautical miles from the land edge to 200 nautical miles out to sea. This area of authority is called the Exclusive Economic Zone (EEZ). The goals of the Magnuson-Stevens Act were to phase out foreign fishing operations in the EEZ, prevent overfishing, allow overfished species to recover, and protect and manage fishery resources (Pacific Fishery Management Council 2003).

The Magnuson-Stevens Act was amended in 1996, to place the focus on sustainability of fisheries resources, habitat conservation, and the standard for maximum sustainable levels for fisheries. The FMP now includes the protection of essential fish habitat (EFH). EFH is habitat that is essential for the spawning, foraging, breeding, and growth of aquatic species

The 1996 amendments established the National Standards. The National Standards prevent overfishing while having optimum fish harvest yields, not favoring residents of one state over another. The National Standards promote efficiency, minimize cost, and avoid duplication and ensure that economic reasons are not the sole purpose for conservation and management plans. The National Standards also establish contingencies for fisheries management plans. Fisheries management plans should recognize the importance of fishery resources to fishing communities, be consistent with conservation guidelines, prevent overfishing, allow for recovery if overfished, and minimize bycatch or mortality from bycatch. The National Standards also promote human safety while at sea (Pacific Fishery Management Council 2003).

Effects of the recommended plan to EFH are expected to be beneficial. All the newly floodable area may be considered EFH habitat upon project implementation. The conclusion of the EFH analysis is that there are no adverse effects, and no consultation is required with NOAA Fisheries.

8.1.16 Federal Water Project Recreation Act

The Federal Water Project Recreation Act (16 USC Sec. 460L-5, 460L-12 et seq., 662) requires Federal projects to consider features that would lead to enhancement of recreational opportunities. Recreation features are not included in the recommended plan. There is a separate ongoing study for implementation of recreation features in the area by the Department of Parks and Recreation.

8.1.17 Americans with Disabilities Act (ADA), Rehabilitation Act, and Architectural Barriers Act (ABA)

The Americans with Disabilities Act (ADA) of 1991, the Rehabilitation Act, and the Architectural Barriers Act (ABA) Title II, require projects administered by State and local governments to provide program accessibility to persons with disabilities as long as providing accessibility would not fundamentally change the purpose of the project. Section 504 of the Rehabilitation Act requires program accessibility for persons with disabilities to any program or activity receiving Federal financial assistance. The ABA requires accessibility for persons with disabilities to Federally-financed facilities constructed or altered on behalf of the United States. The recommended plan does not construct any facilities that would be required to conform to the ADA, Rehabilitation Act, and ABA.

8.1.18 Noise Control Act of 1972 (NCA)

Congress passed the Noise Control Act (NCA) on October 27, 1972, to protect the quality of human life from adverse affects from noise. The NCA requires Federal agencies activities that may produce noise to comply with all Federal, State, and local laws and regulations that regulate noise levels. Federal agencies are required to furnish to the EPA

information regarding the nature, scope, and results of noise research or noise-control programs upon request. Mitigation measures have been incorporated into the project development to reduce noise levels to less than significant levels. However, Federal agencies may be required to purchase equipment that is certified "low-noise emission" if the Administrator of General Services determines the price of the equipment to be reasonably priced, reliable, and available (Environmental Desk Reference 1996).

8.2 STATE REQUIREMENTS

8.2.1 California Environmental Quality Act (CEQA)

The California Environmental Quality Act (CEQA) applies to an action that is directly undertaken by a California public agency; is supported in whole or part by California public agency contracts, grants, subsidies, loans, or other assistance for a public agency; or involves the issuance by a California public agency of a permit, lease, license, certificate, or other entitlement for use by a public agency. CEQA requires State, regional, and local agencies to prepare environmental documents assessing the significant environmental impacts of the recommended plan, to circulate these documents to other agencies and the public for comment, and to consider comments in their decision-making.

The CEQA lead agency for this project is the Reclamation Board. This Feasibility Report/EIR/EIS has been prepared jointly with the Federal lead agency to meet State lead agency CEQA requirement. Upon certifying the document, the CEQA lead agency will adopt a reporting or monitoring program for the changes made to the project or the conditions of project approval to mitigate or avoid significant effects on the environment. The draft Feasibility Report/EIR/EIS constitutes partial compliance with CEQA. Full compliance will be achieved when the final Feasibility Report/EIR/EIS and Notice of Determination is submitted to the Office of Planning and Research.

8.2.2 California Endangered Species Act (CESA)

Compliance with the California Fish and Game Code is required if a species listed as a candidate, threatened, or endangered under the California Endangered Species Act (CESA) may be present in the project area and a State agency is acting as lead agency for CEQA compliance (Section 2090) or if the action may result in the "take" of a species listed under CESA (Section 2081). Section 2081 of the California Fish and Game Code allows the California Department of Fish and Game (DFG) to issue incidental take permits for the take of State-listed threatened and endangered species. Take includes hunting, pursuing, catching, capturing, or killing, or attempting such activity.

This Act requires that non-Federal lead agencies include within their CEQA documentation an assessment of project effects on State-listed species. The lead agency has completed a search of the Natural Diversity Database to identify State-listed threatened and endangered species that have been recorded in the area. The database search was conducted on November 20, 2002. Informal consultation with DFG has continued throughout the planning process. It has been determined that there are potential adverse effects to threatened and endangered species during construction. These potential effects can be avoided or

adequately minimized by implementation of suitable measures. More information on the findings of this assessment can be found in Section 5.3.8 of this report.

DFG reviewed the report and coordinated with the USFWS under the FWCA. The results of the coordination are included in the Coordination Act Report (CAR). The findings were based upon the agency's determination that the recommended plan would not jeopardize the continued existence of any State-listed species or result in the destruction or adverse modification of habitat essential to the continued existence of the species.

The Natural Community Conservation Planning Act (NCCPA) was added to the CESA in 1991. The purpose of the NCCPA is to preserve species and their habitat while allowing for reasonable development to continue. The NCCPA encourages cooperation between DFG, landowners, and other interested parties to develop natural community cooperation plans. The natural community cooperation plans allow for early coordination to protect species and their habitat that are not listed yet (California Resources Agency 2003).

8.2.3 Clean Water Act (CWA)

The State Water Resources Control Board and the California Regional Water Quality Board for the Central Valley Region review activities that affect water quality. The Boards administer the requirements mandated by State and Federal law (Clean Water Act). The Regional Water Quality Control Board establishes water quality standards and review individual projects for compliance with the standards. Any permits or approvals will be acquired from the Central Valley Regional Water Quality Control Board before construction activities begin. Appropriate 401 water quality certification and a National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges will be acquired from the Central Valley Regional Water Quality Control Board (RWQCB).

The State RWQCB adopted the General Permit for Storm Water Discharges Associated with Construction Activity, which applies to all storm water discharges from construction sites disturbing one or more acres. This general permit requires all landowners who propose construction activities on one or more acres to (1) eliminate or reduce non-storm water discharges to storm sewer systems and other waters of the nation, (2) develop and implement a storm water pollution prevention plan, and (3) perform inspections of storm water pollution prevention measures. The general permit is implemented and administered by the nine regional boards of the State. To receive coverage under this general permit, a notice of intent must be submitted prior to commencing any soil-disturbing construction activities. In addition, a storm water pollution prevention plan must be developed and implemented along with a monitoring and reporting program.

Corps regulations require a 404 (b)(1) analysis to determine the extent of water quality impacts. The 404(b)(1) water quality impacts analysis has been written and is included in the appendix which will be used to get the 401 State Water Quality Certification. An NPDES permit is required as a separate permitting action from the Regional Water Quality Control Board for construction areas over 5 acres. An NPDES permit would be obtained prior to construction.

8.2.4 Clean Air Act (CAA)

In 1988, California passed the California Clean Air Act (CAA), which parallels the Federal CAA and calls for the designation of areas of attainment or non-attainment to State Ambient Air Quality Standards. The act established the State's standards and authority to regulate air quality issues. The California Air Resources Board (ARB), a division of the California EPA, is the State agency responsible for regulating air quality. The State standards are more stringent than Federal standards and include pollution regulations not covered by the Federal standards.

The State is divided into 15 air quality basins based on meteorological and geographic features. These air basins are then divided into 35 air districts that address local air pollution issues. Each district has primary responsibility for attainment and maintenance of air quality standards within their jurisdictional boundaries. Local air districts develop plans and programs to maintain clean air that is within the air quality standards of Federal and State laws.

Local air districts achieve this goal by implementing programs, regulations, and standards in several specific categories. The focus areas are motor vehicles, clean burning fuels, consumer products, stationary source, air quality plans, monitoring and research, and several other possible pollution sources (California Air Resources Board, 2001). Local air districts are required to prepare and submit progress reports and attainment plans to the Air Resources Board. A report was provided to the Corps concurring with the EIS/EIR findings of no significant effect.

Sacramento Valley Basinwide Air Pollution Control Council. The proposed action would not violate any standards, increase violations, exceed the U.S. Environmental Protection Agency's conformity *de minimis* thresholds, or hinder the attainment of air quality objectives in the local air basin. A letter from the Glenn County Air Pollution Office received July 2003 included mitigation measures which have been included in the Air Quality write-up in Chapter 5. The work would have no significant adverse effects on the future air quality of the area. Since the project would not exceed *de minimis* thresholds, a conformity determination is not required.

8.2.5 Encroachment Permit

Under California law, no reclamation project of any kind may be started or carried out on or near the Sacramento and San Joaquin Rivers or their tributaries until plans have first been approved by The Reclamation Board. The Reclamation Board's efforts focus on controlling floodwater; reducing flood damage; protecting land from floodwater erosion that would affect project levees; and controlling encroachment into flood plains and onto flood-control works, such as levees, channels, and pumping plants.

Although the project is within the Sacramento River Designated Floodway, the affected levees are not Federal Flood Control Project levees. The Reclamation Board is the non-Federal sponsor for the project; therefore, an encroachment permit is not required for the project.

8.2.6 California Wild and Scenic Rivers Act of 1972

The purpose of this act is to preserve and protect wild and scenic rivers and their immediate environments for the benefit of present and future generations. The legislature must approve any action that would affect a designated river. The primary difference between this act and the Federal act is that the Federal Energy Regulating Committee may issue a license to build a dam on a State-listed river, thus overriding the State statute.

8.2.7 Title 24 of the California Code of Regulations: California Building Code

The California Building Standards Commission (BSC) is an independent commission within the State and Consumer Services Agency that codify and publish approved building standards in one state building standards code (California Code of Regulations, Title 24). The State BSC provides guidance to architects, engineers, insurance companies, etc., when making decisions about the building industry. The BSC ensures that the California building codes effectively address areas such as health, fire and panic safety, employee safety, energy conservation, and handicapped accessibility. The BSC determines if such codes and standards are in the public interest.

8.2.8 Williamson Act (California Land Conservation Act), Farmland Security Zone Act (Super Williamson Act)

The Williamson Act and the Farmland Security Zone Act reduce property taxes on qualifying agricultural land in exchange for a commitment from the landowner not to develop the land with uses other than those compatible with and supportive of agriculture. The Williamson Act creates an arrangement whereby private landowners contract with counties and cities to voluntarily restrict land to agricultural and open-space uses. This arrangement is a 10-year contract during which time the restricted parcels are assessed at a lower tax rate. The Farmland Security Zone Act is a 20-year contract. These contracts renew automatically each year. In order to terminate the contract, a landowner must file a notice of non-renewal that starts a 9-year process for contract termination. The contract may be canceled to avoid the 9-year termination process, but is subject to a 12-½ percent fee based on the assessed value of the property. Cancellations are allowed when the public interest is no longer best served by the contractual restrictions placed on agricultural land, and if there is no other land suitable for the proposed alternative use. The Department of Conservation will be notified of the intent to convert any lands in Williamson Act and Farmland Security Protection Act by the landowner following potential authorization of the project by Congress.

8.3 LOCAL PLANS AND POLICIES

8.3.1 Air Pollution Control Districts

The project construction falls under the jurisdiction of the California Air Resources Board and the Glenn County Air Pollution Control District. The State Board and the District determines whether project emission levels significantly affect air quality, based on standards established by the USEPA, and the California Air Resources Board. A letter from the Glenn County Air Pollution Office received July 2003 included mitigation measures, which

have been included in the Air Quality discussion in Chapter 5. The District would first issue a permit to construct, followed by a permit to operate, which would be evaluated to determine whether all facilities have been constructed in accordance with the authority-to-construct permit.

8.3.2 Public Works and Transportation Departments

An encroachment permit must be obtained when encroachments are proposed within, under, or over a county or city road, or cover rights-of-way. The non-Federal sponsor would consult the appropriate local agencies to obtain the encroachment permits prior to construction.

8.3.3 Mosquito Abatement District

The Glenn County Mosquito and Vector Control District is responsible for conducting mosquito abatement and vector control in Glenn County. In addition, Glenn County maintains a Mosquito Surveillance Task Force. Both of these organizations serve under the County Board of Supervisors. The recommended plan would not create areas of stagnant water and therefore would not likely require mosquito abatement.

8.3.4 Glenn County General Plan

The Glenn County Planning Division established landscaping standards for the county based on the type of land use zone of the landscaped area. Undeveloped land should have permanent vegetation that prevents runoff from entering the streets and waterways. Landscaping should not cause accumulation of silt, mud, or standing water, or cause aesthetic or public safety problems on the property, adjacent land, streets, or sidewalks (Glenn County 2003).

All landscaped areas must have a drip irrigation system, in-ground sprinklers, a portable irrigation system, or drought-resistant plants. A landscape plan, as an overlay of a proposed site plan or as a separate drawing, shall be provided to Planning Division for review and approval. The landscape plan must provide the size, type, and spacing of any trees or shrubs planted in the landscaped areas. The location of existing trees and shrubs including the size, type, and spacing must be included in the landscape plans and the irrigation system layout (Glenn County 2003).

The Glenn County Planning Division determines the zoning areas within Glenn County. The establishment of the county zoning is based on the Glenn County General Plan, public health, and safety, and was established to stimulate and guide the growth of residents and business in Glenn County. The zones are labeled according to a land use, called principal districts. Some of the principal districts are, but not limited to timberland preserve zone, agriculture preserve zone, industrial zone, flood zone, and single-family resident zone. There are 22 different principal districts in Glenn County (Glenn County 2003).

The Planning Division has county ordinances that regulate the land use in all the principal districts. The ordinances regulate the type of activities that can occur in each principal district with and without permits, building sizes and heights, minimum distances

between buildings, and other issues that could affect the quality of human health (Glenn County 2003).

The Glenn County General Plan (Volume I, Policy Plan) indicates that an increasing emphasis will be placed on recreation as an economic generator, including hunting and other active use of public and private lands. The General Plan promotes the acquisition of public lands to be used for the preservation of wildlife and to generate economic activity through public use and viewing. The county will retain its abundant recreation opportunities and urban development will be complemented by parks and other open space areas.